CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	7	Force	V	Discourt.	☐ U.S.
Craig Anderson		Squad #4	201604937	☑ .	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	Pı	recinct:	18	Mo. SOL	EO SOL
Monday, 05/30/2016 4:40 PM		Newkirk Avenue and E	East 32nd Street		67	11	/30/2017	11/30/2017
Date/Time CV Reported		CV Reported At:	How CV Reported:]	Date/Time	Rece	eived at CCF	RB
Mon, 05/30/2016 6:47 PM		IAB	Phone	ļ	Wed, 06/0	8/201	6 10:40 AN	И
Complainant/Victim	Type	Home Addre	ess					
Witness(es)		Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. An officer			067 PCT					
2. Officers			067 PCT					
3. POM Marc Loyola	15528	955101	067 PCT					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. POM Wilson Cordero	27076	953779	067 PCT					
2. POM Marc Aurelus	05079	948632	067 PCT					
3. POM Michael Bresnahan	9357	952489	067 PCT					
4. POM Brian Dean	21099	951659	067 PCT					
5. POM Kyle Daly	22644	954694	067 PCT					
6. POM Michael Raheb	28396	955356	067 PCT					
7. POF Joannie Colon	27657	954657	067 PCT					
8. POM Joseph Calabrese	10163	954588	067 PCT					
9. POF Yvette Franquiz	18667	957599	067 PCT					
Officer(s)	Allegatio	on			Inve	stiga	tor Recon	nmendation
A.POM Marc Loyola	Force: Po	olice Officer Marc Loyo	la struck § 87(2)(b)	W	ith			
B.POM Marc Loyola	Force: Po	olice Officer Marc Loyo	la used physical forc	e				
C. Officers	_	Officers stopped § 87(2)(b)						
D. Officers	Discourte	esy: Officers spoke disco	ourteously to § 87(2)(b)					
E. An officer	Force: A	n officer struck § 87(2)(b)	with an asp.					

Case Summary

Sgt. Richard Custodio of the 67th Precinct reported this incident to IAB on May 30, 2016 (BR 01). The CCRB received the IAB referral on June 8, 2016.

§ 87(2)(g)
On May 30, 2016 at approximately 4:25 p.m., sar(2)(b) and sar(2)(b) were involved in a vehicle accident in the vicinity of Flatbush Avenue and Cortelyou Road in Brooklyn. sar(2)(b) pursued him and reported the accident to PO Wilson Cordero and PO Marc Aurelus, who were posted at Bedford Avenue and Newkirk Avenue. Those officers broadcast a description of sar(2)(b) s vehicle over the radio and numerous officers pursued him.
At approximately 4:40 p.m., satisfied by the intersection with East 32 nd Street. satisfied by the exited his vehicle and an officer identified by the investigation as PO Marc Loyola allegedly drove into satisfied pinning him against a car that was parked nearby (Allegation A). PO Loyola and numerous other officers approached and handcuffed him. PO Loyola allegedly punched several times in the head and back (Allegation B).
arrived and approached the accident scene. (Several officers stated that got in a police car and tried to drive it; ser(2)(b) denied this.) Officers handcuffed (Allegation C). During the struggle to handcuff him, numerous officers allegedly used obscenities toward and one officer allegedly struck him in the ribs with an asp (Allegations D and E).
was released after PO Aurelus informed the other officers that he was the victim of the initial hit-and-run. He transported himself to services Unit (ESU) responded to the scene to free services Unit (ESU) responded to the scene to free services us leg from the parked car. An ambulance transported him to services which pierced his skin and caused a flesh wound. He later received follow-up care from Correctional Health Services and at services and at services (see Privileged Documents).
§ 87(2)(g)
IAB obtained a cell phone video from a man who lives near the incident location. However, the video recording did not start until after was handcuffed and did not show any of the FADO allegations (BR 02).

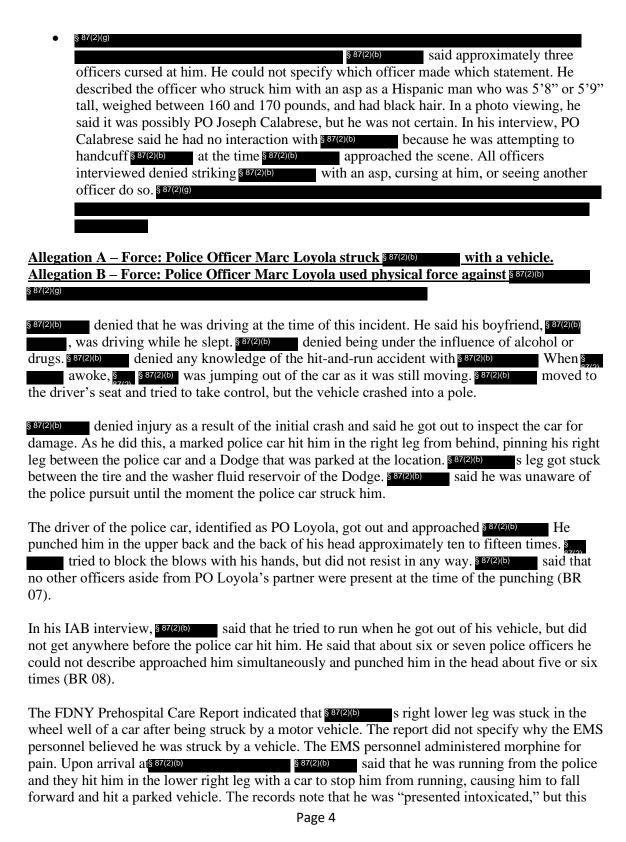
Mediation, Civil and Criminal Histories

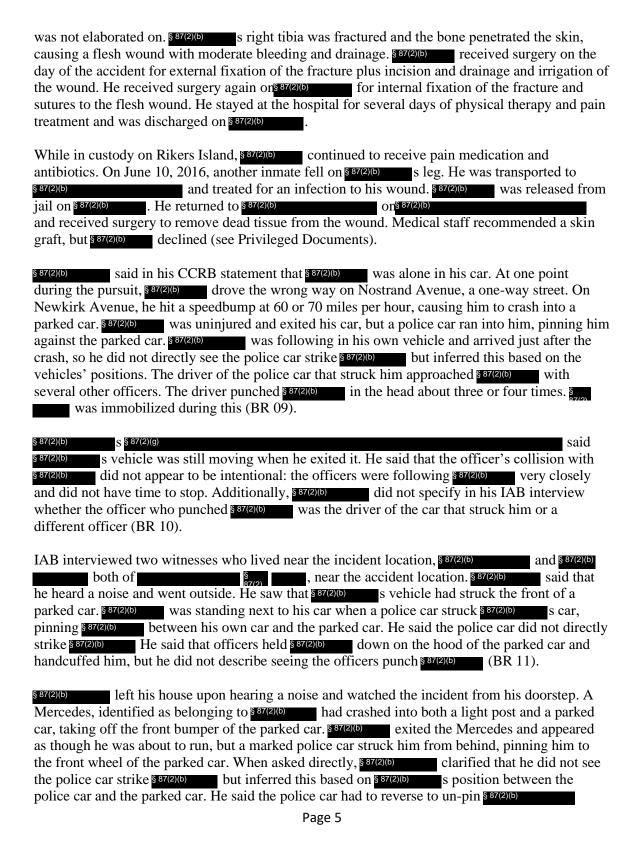
- s arrest and injuries rendered this case unsuitable for mediation.
- As of August 30, 2016, neither \$87(2)(b) nor \$87(2)(b) has filed a Notice of Claim related to this incident with the Comptroller's office (BR 03).

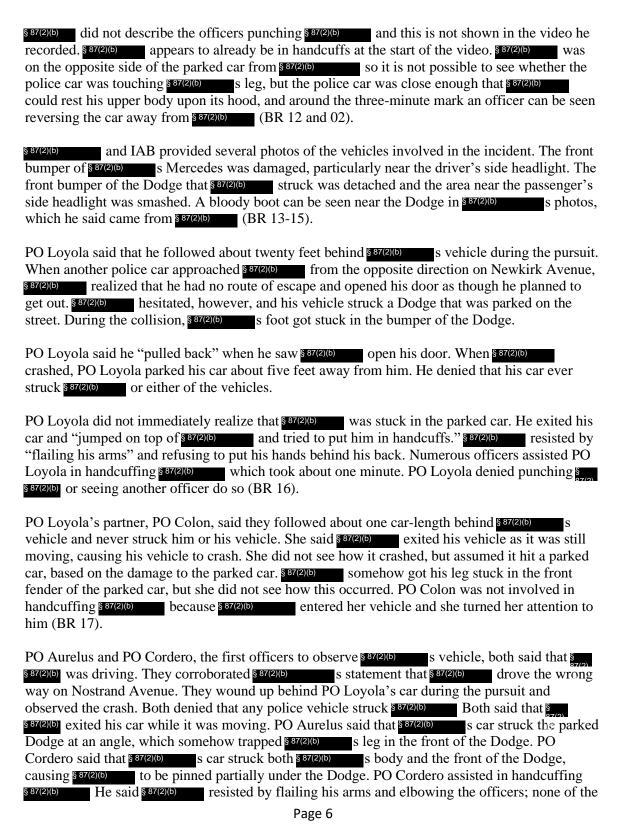
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	Civilian and Officer CCRB Histories
•	This is the first CCRB complaint filed by \$87(2)(b) or \$87(2)(b) (BR 06). PO Loyola has been a member of the NYPD for three years. This is the first CCRB complaint against him.
•	Potential Issues The undersigned investigator contacted representatives of the Flatbush Gardens apartment complex and Public School 361, both of which are located near Newkirk Avenue and East 32 nd Street. Both representatives said there were no functional camer installed at the incident location. As noted above, IAB obtained a cell phone video from man who lives near the incident location, but the recording did not start until after was handcuffed. S87(2)(9)
olan	Findings and Recommendations nation of Subject Officer Identification
•	While all officers interviewed denied that any police vehicle struck \$87(2)(b) PO Loyola and his partner, PO Joannie Colon, acknowledged that their vehicle was the on following most closely behind \$87(2)(b) when he crashed his car. \$87(2)(9)
•	All officers interviewed denied punching \$\frac{8}{37(2)(b)}\$ or seeing another officer do so. \$\frac{8}{37(2)(b)}\$ and \$\frac{8}{37(2)(b)}\$ gave dissimilar descriptions of the officer who punched \$\frac{8}{37(2)}\$ said he was 5'11"-tall white man with dirty blonde hair, while \$\frac{8}{37(2)}\$ said he was a short, overweight white or Hispanic man with a shaved head, a said in a photo viewing that it was possibly PO Cordero. However, \$\frac{8}{37(2)(b)}\$ and \$\frac{8}{3}\$
	both said in their interviews that the officer who punched safe(2)(b) was the same officer who drove the car that hit him. \$87(2)(9)
•	estimated that about four officers were involved in stopping and handcuffing him. § 87(2)(9)

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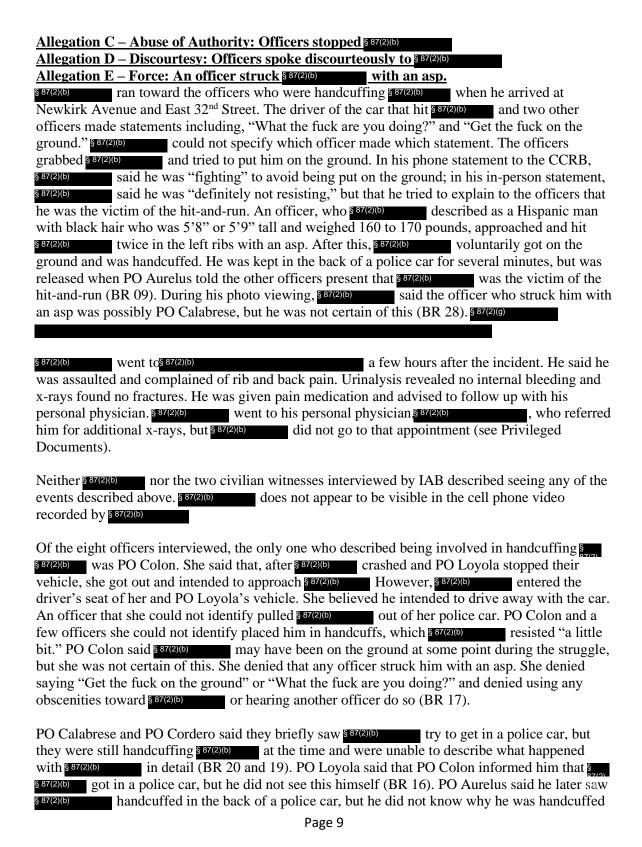




officers punched him. PO Cordero was unaware that \$87(2)(b) was stuck until after they had finished handcuffing him. PO Aurelus performed crowd control and denied any involvement in handcuffing \$87(2)(b) (BR 18 and 19).
PO Calabrese said he did not see the vehicle crash, but assisted in handcuffing \$87(2)(b) resisted being handcuffed by flailing his arms. PO Calabrese did not recall punching \$87(2)(b) or seeing another officer do so. He did not recall \$87(2)(b) s leg being pinned during the struggle, but said he learned this later on, when ESU responded to free his leg (BR 20).
PO Raheb, PO Bresnahan, and PO Franquiz all said that they arrived to the scene later, did not see the vehicle crash occur, and were not involved in handcuffing [S87(2)(5)] (BR 21-23).
The Police Accident Report, prepared by PO Cordero, indicates that \$87(2)(6) s Mercedes struck the front bumper of a parked car on the passenger's side (BR 24). The ESU report indicates that \$83(2)(6) s foot was pinned in the front bumper of a car and that ESU, in coordination with Emergency Medical Services, used hydraulic tools to free his foot (BR 25). The Unusual Occurrence Report, written by Sgt. Richard Custodio, states that after \$87(2)(6) crashed his Mercedes into the front of a parked Dodge, he attempted to jump over both vehicles to evade the police. He failed to clear the vehicles, instead landing between the Mercedes and the Dodge, breaking his leg (BR 26). (Sgt. Custodio's operator, PO Raheb, said they arrived to the scene well after the crash occurred, \$83(2)(9) The report does not specify who told Sgt. Custodio the information above.) IAB Group 54's investigation was ongoing at the time of the undersigned's most recent contact with the IAB investigator.
Officers are prohibited from "ramming" the subject of a vehicle pursuit. <u>Patrol Guide</u> , Section 221-15 (BR 27). Current Department Advocate's Office policy holds that ramming must be intentional to constitute misconduct. Any use of force by police must be reasonable under the circumstances. These circumstances include the subject's flight risk and the threat posed to the officers. <u>Patrol Guide</u> , Section 221-01 (BR 30).
It is undisputed that §87(2)(b) s leg got stuck in the parked Dodge, causing injury. §87(2)(9)
§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)
§ 87(2)(g)
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While PO Loyola said that he parked his car about five feet away from \$87(2)(b) the police vehicle in the video is much closer. The angle of the video, though, makes it impossible to see whether the police car was actually touching \$87(2)(b) \$87(2)(g)
The medical records from \$87(2)(b) and other providers detail the extensive treatment to \$87(2)(b) s leg injury, but contain little to no analysis of the injury's cause, \$87(2)(9)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

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	resnahan, PO Franquiz, ar nd denied having any kno		ived at the scene later than the BR 21-23).
this number is	ng on scene, but the units l incomplete (BR 26 and 29 patrol was there."	isted on the Event Unit In	ccurrence Report listed sixteen formation showed that even w, he said that "basically
uncertain of thi		s struck him with an asp, l s interview that he assiste	ded seventeen officers, that Pone acknowledged that he was d in handcuffing \$87(2)(b)
	discourtesy allegations, §88 tatements he mentioned. §		cify which of the officers mad
§ 87(2)(g)			
Squad: 4			
Investigator:			
	Signature	Print	Date
Squad Leader:			
	Title/Signature	Print	Date
Reviewer:	Title/Signature	Print	 Date

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